

04-16-03

RCE/1600

K&K FORM (8/00)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

REQUEST FOR CONTINUED EXAMINATION (RCE)

TRANSMITTAL FORM (37 C.F.R. § 1.114)

#13
4/16/03

DOCKET NO.
11411/116

APPLICATION SERIAL NO.
09/775,431

EXAMINER
Mojdeh BAHAR

ART UNIT
1617

INVENTOR(S):

Paul T. GARDINER and Derek E. WOODGATE

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APR 18 2003
TECH CENTER 1600/2900

Address to:
Commissioner for Patents
Washington D.C. 20231
Box: RCE

This is a **request for continued examination** under 37 C.F.R. § 1.114 (RCE) of pending application Serial No. 09/775,431, filed on February 1, 2001, entitled **ALPHA LIPOIC ACID BASED FOOD SUPPLEMENT FOR LEAN MUSCLE MASS AND STRENGTH.**

The following constitute the submission **required** by 37 C.F.R. § 1.114(a) and is attached:

☒ Preliminary Amendment
☐ Information Disclosure Statement
☐ Drawing Changes
☐ Other Submission: _____

04/17/2003 RMEBRAHT 00000104 110600 09775431
01 FC:2801 375.00 CH
02 FC:2254 725.00 CH

1. The filing fee for this RCE and the required amendment/submission is calculated below. The fee below is calculated based on the status of the claims after the entry of the attached amendment/submission. The fee for any new additional claims is included with this RCE, the fee for previously entered additional claims having already been paid.

	CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT NUMBER EXTRA*	RATE (\$ PER CLAIM	FEE (\$)
BASIC FEE						750.00
TOTAL CLAIMS	16		43	0	18.00	0.00
INDEPENDENT CLAIMS	1		3	0	84.00	0.00
MULTIPLE DEPENDENT CLAIMS					280.00	0.00
				Must be zero or larger	TOTAL	750.00
If Applicant is a small entity under 37 C.F.R. §§ 1.9 and 1.27, then divide total fee by 2, and enter amount here.				SMALL ENTITY TOTAL		375.00

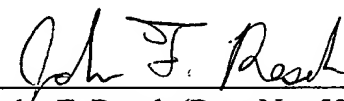
Express Mail No. EV 207241749 US

2. Please charge the required RCE and submission filing fee of **\$375.00** for small entity to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.
3. Applicants respectfully requests a four-month extension of time in which to file a response to the Notice of Appeal filed, October 15, 2002, for which a response period expiring on December 15, 2002 was set. The extended period expires on April 15, 2003. The Commissioner is hereby authorized to charge payment of the 37 C.F.R. § 1.136(a) extension fee of **\$725.00.00** for small entity to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.
4. The Commissioner is hereby authorized to charge payment of fees, including any additional fees associated with this communication or arising during the pendency of this application, or to credit any overpayment, to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**.
5. A duplicate copy of this transmittal form is enclosed.

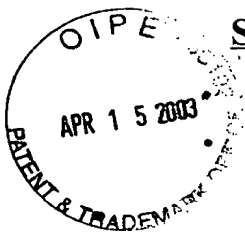
Respectfully submitted,

Dated: April 15, 2003

By:


John F. Resek (Reg. No. 52,162)

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SPECIAL NOTES REGARDING RCE PROCEDURES

RCE practice is **not applicable** to provisional applications, design applications, applications filed before June 8, 1995, or during reexamination. See 37 C.F.R. § 1.114(d) below.

- This RCE form **must** be accompanied by a "submission" (e.g., an amendment). See 37 C.F.R. § 1.114(a), (b).

Additional Notes

- Treat claim fee calculation as you would an amendment filed by itself.
- The applicant may not defer paying the fee for an RCE.
- An RCE is entitled to the benefit of a Certificate of Mailing under 37 C.F.R. § 1.8.
- Inventorship carries/continues. Any change must be via 37 C.F.R. § 1.48.
- Small entity status carries/continues.

37 C.F.R. § 1.114(d)

"(d) The provisions of this section **do not** apply in any application in which the Office has not mailed at least one of an Office Action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The provisions of this section also **do not** apply to:

- (1) A provisional application;
- (2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;
- (3) An international application filed under 35 U.S.C. 363 before June 8, 1995;
- (4) An application for a design patent; or
- (5) A patent under reexamination."

Interim Rule, 65 Fed. Reg. 14865, 14872-73 (March 20, 2000).